IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/827,088
Inventor(s)	:	Kuang-Kai Liu
Filed	:	April 19, 2004
Art Unit	:	3761
Examiner	:	Benedict L. Hanrahan
Docket No.	:	9606
Confirmation No.	:	1872
Customer No.	:	27752
Title	:	Disposable Absorbent Articles Having Wetness Appearing Graphics

REPLY BRIEF UNDER 37 C.F.R. §41.41

Mail Stop Appeal Brief – Patents
Commissioner for Patents
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This Reply Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on December 23, 2009. A timely Notice of Appeal was filed on March 23, 2010, and a timely Appeal Brief was filed on May 24, 2010.

This Reply Brief is submitted in response to the Examiner's Answer mailed on August 5, 2010. Under 37 C.F.R. §41.41(a)(1), this Reply Brief is due within 2 months from the mailing date of the Examiner's Answer, making this Reply Brief due on or before October 5, 2010.

Reply to Examiner's Answer begins on page 2 of this Reply Brief.

REPLY TO EXAMINER'S ANSWER

The arguments presented herein are responsive to the Examiner's Answer of August 5, 2010, and are supplemental to the arguments presented in Appellant's Appeal Brief of May 24, 2010. The arguments presented in the Appeal Brief of May 24, 2010 are not repeated in full here, however, Appellant continues to advance those arguments in favor of patentability in addition to those presented below.

Castello fails to teach or suggest "a wetness indicator comprising a graphic that further comprises at least one hydrolyzable color composition… wherein upon wetting, said hydrolyzable color composition undergoes a hydrolytic reaction resulting in said invisible graphic becoming visible to the unaided eye", as required, among other things, by Appellant's claims.

In the "Response to Argument" section of the Examiner's Answer, the Examiner states:

> "Applicant argues that Castello only shows hydration and not hydrolysis. Examiner disagrees. Although Castello does not explicitly state a hydrolyzable reaction, it does show a reaction for the change of color that is known to concurrently have hydrolysis, as shown in reaction 1 in Column 4, lines 23-24." (Examiner's Answer, pages 9-10).

The Examiner clearly states that Castello does not explicity disclose a hydrolyzable reaction. The Examiner does not argue that Castello implicitly discloses that a hydrolyzable color composition undergoes a hydrolytic reaction resulting in the invisible graphic becoming visible to the unaided eye. Instead, the Examiner states that Castello discloses a reaction "that is known to concurrently have hydrolysis". Appellants respectfully submit that whether such assertion is correct or not, it is not relevant to the analysis of whether Appellant's claim limitation is met. Either Castello discloses the limitation (explicitly or implicitly) or it does not. Appellants submit that it does not.

In the "Response to Argument" section of the Examiner's Answer, the Examiner states:

> "Applicant argues that Castello fails to disclose a hydrolytic reaction where the invisible graphic becomes visible to the unaided eye. Examiner

> disagrees. Castello explicitly states that during reaction 1 the blue color becomes apparent during 'a shift in bond energy from ultraviolet (vacuum),' which is invisible to the unaided eye, to the 'ultraviolet (visible) range' as detailed in Col 4, lines 32-38." (Examiner's Answer, page 10).

Appellants submit that when read in the context of the rest of Castello's disclosure, the blue color being referred to in the passage cited by the Examiner is the "second color" of the wetness indicator, i.e. the color shown after the indicator is wetted. Castello teaches that "The hydratable salt must be present along the membrane in a concentration sufficient to exhibit a first color when the diaper or other product to which the indicator is mounted is in an anhydrous or dry condition. When the indicator becomes wet, or attains a hydrated condition, the hydratable salt causes the wetness indicator to exhibit a second color which is substantially in contrast to the first color" (col. 1, lines 55-62; emphasis added). Appellants respectfully submit that the "first color" is visible, and at least for this reason Castello fails to teach a wetness indicator "wherein upon wetting, said hydrolyzable color composition undergoes a hydrolytic reaction resulting in said invisible graphic becoming visible to the unaided eye" (emphasis added), as required by Appellant's claims.

In the "Response to Argument" section of the Examiner's Answer, the Examiner states:

> "Applicant asserts that Towsend does not teach a graphic that changes from invisible to visible as a result of hydrolysis. Examiner disagrees with this point but would first like to clarify that Applicant's arguments are different from what is disclosed in the claims because Applicant has left out the functional limitation specifying 'unaided eye'". (Examiner's Answer, page 10).

Assuming that the Examiner is referring to the portion of Appellant's Appeal Brief that states, referring to Towsend: "Irrespective of these teachings, however, the reference fails to teach or suggest a graphic, like Applicant's color composition, that changes from invisible to visible as the result of hydrolysis." (Appellant's Brief, page 6, lines 1-3; emphasis in original), Appellants submit that when read in the context of the

rest of the paragraph, it is clear that Apellants are focusing on the hydrolysis (Appellant's claims) versus ion-exchange reaction (Towsend's disclosure) contrast, and Apellants are in no way ignoring the remaining limitations of their claims. For example, it can be seen in another statement in Apellant's Brief that Appellants are fully addressing the pending rejections and indicating that Towsend lacks teaching or suggestion regarding the "… said graphic becoming visible to the unaided eye" limitation: "Castello's failure to teach or suggest 'a wetness indicator comprising a graphic that further comprises at least one hydrolyzable color composition… wherein upon wetting, said hydrolyzable color composition undergoes a hydrolytic reaction resulting in said invisible graphic becoming visible to the unaided eye' is not remedied by Raykovitz or Towsend." (Appellant's Brief at page 5, lines 15-18).

In the "Response to Argument" section of the Examiner's Answer, the Examiner states:

> "Applicant asserts that Towsend does not disclose hydrolysis. Examiner disagrees as Towsend provides basically a definition of how hydrolysis works when describing the reaction (Col 4, lines 24-28)". (Examiner's Answer, pages 9-10).

As with Castello, Appellants submit that Towsend either discloses the limitation (explicitly or implicitly) that a hydrolyzable color composition undergoes a hydrolytic reaction resulting in the invisible graphic becoming visible to the unaided eye or it does not. Appellants submit that it does not. The Examiner asserts that Towsend "provides basically a definition of how hydrolysis works". Appellants submit that this is not a disclosure of hydrolysis. Whether Towsend's ion exchange reaction is analogous to, or similar to, hydrolysis (which Appellants need not argue), is irrelevant. Appellant's submit that Towsend discloses a reaction where, e.g. "upon exposure to hydrogen ions, released by the ion exchanger having contacted sodium ions in urine, the substrate bound acid-base indicator would [change color]" (col. 12, lines 41-43). In contrast, Appellants claims require hydrolysis, i.e. where water molecules are reacted with the compound of interest and water is conserved in the reaction, i.e. it becomes part of the reaction product, not where ions are being exchanged between the indicator and the bodily fluid.

SUMMARY

In view of all of the above, it is respectfully submitted that the rejections of Claims 1-16 are erroneous and should be reversed.

Respectfully submitted,
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